



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,189	10/22/2003	Basimah Khulusi	413450	6778

30954 7590 03/15/2006

LATHROP & GAGE LC
2345 GRAND AVENUE
SUITE 2800
KANSAS CITY, MO 64108

EXAMINER

MORAN, KATHERINE M

ART UNIT PAPER NUMBER

3765

DATE MAILED: 03/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/691,189	Applicant(s) KHULUSI, BASIMAH	
	Examiner Katherine Moran	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,7-15,18,19,21-23,25-27 and 30-34 is/are rejected.
- 7) ☒ Claim(s) 2,5,6,16,17,20,24,28 and 29 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Applicant's amendment of 12/5/05 has been received and reviewed. Applicant amended the specification to overcome a specification objection. A request for reconsideration of the prior art rejections was also submitted, along with remarks. Upon further review, the previous art rejections have been withdrawn. Claims 1-34 are pending.

Specification

1. The disclosure is objected to because of the following informalities: claim 1 recites in part: vent means disposedwithin the goggle support means. Claim 13 recites vents disposed....within the support arms. This recitation could not be found in the disclosure.

Appropriate correction is required.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the vents disposed within the goggle supports means and vents disposed within the support arms must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended

replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting

directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1, 3, 4, 7-15, 18, 21-23, 25-27, and 30-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Huh (U.S. App 2003/0033661). Huh discloses the invention as claimed. Huh teaches a goggle which could be used for applications requiring protection of the eyes of a wearer, the goggles comprising a housing 20 with an arcuate upper surface (see Fig. 3 which illustrates the inner periphery of the housing's upper surface having an arcuate shape), with a first end and a second end, a substantially planar frontal surface 16, a centrally disposed nose bridge (shown but not labeled), a first and second lower panel disposed opposite the nose bridge, and an edge of the panels connecting with the arcuate upper surface first and second end through the continuous sidewall portion. Goggle support means in the form of the inner portion of a lower sidewall (see Fig.2) assist in securing the goggle to the head of the wearer to the degree disclosed by Applicant's specification and shown in the drawings. Vent means 3 comprising a plurality of openings 3a are disposed adjacent the nose bridge and within goggle support means. The posterior edge of the arcuate upper surface is contoured to conform to the topography of the wearer's face as illustrated, with the anterior edge intersecting with the substantially planar frontal surface. The support means appear to extend rearwardly between about 3 and 5 inches from the planar frontal surface, and the arcuate upper surface and lower panels reduce refraction of light as perceived by the eyes of the wearer to the same degree as Applicant's

invention since the housing structure is the same, and a prior art device having the same structure is assumed to function in the same manner as the claimed device. The planar frontal surface appears to extend outwardly from the eye of the wearer about 3 centimeters such that the frontal surface could accommodate a pair of glasses. Support arms 13c extend rearwardly from the arcuate upper surface first and second ends toward ears of the wearer, and include vents bounded by structural element 13b. The arcuate upper surface and first and second lower panels increase the field of vision of the wearer.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Huh in view of Hirschmann, Jr. (Hirschmann, U.S. 3,924,271). Huh discloses the invention substantially as claimed. However, Huh doesn't teach a plastic or glass housing. DuBois teaches a plastic housing 10. The plastic housing allows for a degree of resiliency when handling the goggle frame. Therefore, it would have been obvious to form Huh's housing from plastic, since plastic is a material well known for its resilient, yet somewhat pliable properties.

Allowable Subject Matter

7. Claims 2, 5, 6, 16, 17, 20, 24, 28, and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments with respect to the 35 USC 103(a) rejection over DuBois in view of Bolle have been fully considered and are persuasive. The rejections have been withdrawn.

Conclusion

9. Any inquiry concerning this communication or earlier communications should be directed to Primary Examiner Katherine Moran at (571) 272-4990. The examiner can be reached on Monday-Thursday from 8:30 am to 6:00 pm, and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert, may be reached at (571) 272-4983. The official and after final fax number for the organization where this application is assigned is (571) 273-8300. General information regarding this application may be obtained by contacting the Group Receptionist at (571) 272-3700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Art Unit: 3765

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kmm

March 10, 2006

A handwritten signature in black ink, appearing to read 'K Moran', with a stylized, cursive script.

Katherine Moran

Primary Examiner, AU 3765